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E.O. 12958: DECL: 12/14/2017
TAGS: [EINV](#) [EPET](#) [EAIR](#) [ETRD](#) [PGOV](#) [PREL](#) [EC](#)
SUBJECT: CORREA MEETS AMBASSADOR, ACKNOWLEDGES NEED TO PAY
OXY ARBITRAL AWARD

REF: A. QUITO 1045

- [B](#). QUITO 2571
- [C](#). QUITO 1114
- [D](#). QUITO 2622
- [E](#). QUITO 2117

Classified By: Ambassador Linda Jewell. Reason: 1.4 B and D.

[1](#). (c) Summary. President Correa told the Ambassador that Ecuador would pay an arbitral award that determined that the GOE owes Occidental Petroleum a multi-million dollar tax refund. Correa reaffirmed his interest in establishing an economic dialogue with the U.S., said that Ecuador is continuing to review all of its bilateral investment treaties, speculated about the creation of a regional arbitration forum, and said that Ecuador's Ambassador has instructions to lobby for ATPA renewal. Correa said the GOE will investigate allegations that the army committed human rights violations in ending a protest that blockaded Petroecuador facilities. He graciously accepted our apology about having been searched at Miami airport, saying "it's over." The Ambassador explained that the USG continued to be committed to pursuing an extradition case against the Isaias brothers, but needed the GOE to present firm charges backed by evidence. End summary.

[2](#). (C) The Ambassador met with President Rafael Correa on December 11, at her request. As in previous meetings, Correa was cordial and expansive. New Foreign Minister Maria Isabel Salvador, who had been appointed on December 7 (septel), joined them after about a half hour of one-on-one conversation.

Miami Airport Security Incident

[3](#). (C) At the beginning of the meeting, the Ambassador apologized to Correa for his having been subjected to a security inspection at Miami airport. Correa downplayed the issue, saying that it was over and that he understood that the GOE had not provided sufficient advance notice. He did note, however, that this had not been the first time that he was subject to a rigorous inspection at a U.S. airport and hoped the U.S. would get past its "schizophrenic" mindset that careened between a welcoming and harassing approach to visitors.

Occidental VAT Arbitral Award

[4](#). (C) Moving on to other issues, the Ambassador noted that the House of Lords had rejected the GOE's final appeal of an

arbitral tribunal's decision that Ecuador owes Occidental Petroleum (Oxy) \$75 million (plus interest) as a value-added tax repayment. Correa replied "We lost, so we have to pay." He did stipulate that the GOE would seek to offset the payment with what they believe Oxy owes the GOE (based on the brief period when Oxy was still operating and subject to the 2006 Hydrocarbons Law), and would need to establish a payment plan. He continued that Oxy lawyers had taken advantage of a loophole in Ecuadorian tax law, which he said has now been fixed.

15. (C) Comment: Correa's position on this matter is not public. While the Department may relay this information in confidence to Occidental, neither we nor Occidental should reveal this information publicly or to others who might. Discussion of this information before the GOE is ready to do so could jeopardize Oxy's chances of being repaid. Embassy also cautions that we believe that the GOE has not yet explored the details of how it will manage the announcement or make the payment.

Bilateral Investment Treaty and International Arbitration

16. (C) The conversation evolved into a discussion of the role of arbitration to attract international investment, with the Ambassador noting that new investors that the GOE is courting, such as Ivanhoe Energy (septel) would likely request international arbitration provisions, particularly given the unpredictability of the Ecuadorian legal system. Correa did not dispute the difficulty of relying on the local courts, but expressed frustration with an international arbitration system operated by the World Bank and favored establishing a regional arbitration body.

17. (C) Correa added that Ecuador is reviewing its bilateral investment treaties, stressing that it is reviewing all of its BITs, not just its treaty with the U.S. (reftel a). He

then asked Foreign Minister Salvador for an update on the review.

Quito Airport Concession

18. (U) The Ambassador informed Correa of USG support for the new Quito airport, namely financing from the Overseas Private Investment Corporation (OPIC) and U.S. Export-Import Bank, since Correa had challenged the concession of a multinational consortium to build the new airport (reftel b). The Ambassador added that we are supporting the project because Quito needs a new, safer airport.

19. (C) Correa said that he was aware of U.S. support. He retrieved from his desk a detailed summary of the airport financing to demonstrate that the central government had made several contributions to the new airport, including the land, for which it was not receiving anything in return. He said the concession agreement was a bad deal for the central government, which is now looking for some compensation. He also added that the central government is prepared to buy out the investors in the consortium. Correa allowed that Quito Mayor Paco Moncayo is not corrupt, but asserted that he believes that Moncayo did not understand all the details of the airport concession agreement that Moncayo signed. He implied that the federal government would continue to discuss the matter with the Quito government, saying that Moncayo is open to compromise, unlike Jaime Nebot, his Guayaquil counterpart.

Economic Dialogue

110. (C) The Ambassador asked Correa if he is still interested in establishing a bilateral economic dialogue (reftel c). Correa answered yes, that of course Ecuador wants to talk with the U.S. and that the GOE is not anti-trade and is sensitive to the needs of the market. The

Ambassador suggested that the Dialogue should initially focus on discrete confidence building exercises, such as improving phytosanitary cooperation. She added that the USG had provided the GOE with suggested topics, and that we understood that Foreign Ministry had prepared a response but that it was awaiting Correa's approval. (Note: From the discussion, it was evident that former Foreign Minister Espinosa had not yet found an opportunity to present the MFA counterproposal to Correa.) He instructed Foreign Minister Salvador to move forward with proposals for the Dialogue.

ATPA

¶11. (C) The Ambassador asked Correa how we could help him, and he replied: renew the Andean Trade Preferences Act (ATPA). The Ambassador said that the Administration is currently establishing a position on ATPA renewal, and asked if Ecuador would lobby for renewal. Correa said that the Ecuadorian ambassador in Washington has instructions to lobby for renewal. The Ambassador noted that if so, it would be useful for the GOE to retain Ambassador Gallegos at least through that process, since he knows Washington well, to which Correa and FM Salvador nodded as if in affirmation.

Dayuma Protest against Petroecuador

¶12. (C) Correa said that the Dayuma protest that had blockaded Petroecuador for several days (reftel d) was a "corrupt mess." He also suggested that the FARC may have manipulated the situation as a way to divert the Ecuadorian military from its recent border zone operations. The Ambassador noted the challenges of sending in the military rather than the police to break up protests, a task that the military is neither trained nor equipped to do. Correa recognized that challenge, and said that the GOE would investigate the army's actions but that the "blackmail" has to stop.

Isaias Extradition

¶13. (C) Correa's legal advisor, Alexis Mera, joined at the end of the meeting to ask about the status of Ecuador's request that the U.S. extradite the Isaias brothers, owners of a failed Ecuadorian bank (reftel e). The Ambassador told Correa, FM Salvador, and Mera that the U.S. was committed to moving forward, but that Ecuador needs to present firm charges supported by evidence of probable cause to meet the requirements of the U.S. judicial system. She said it is not

a question of political will, but of law, and that Ecuador would have to present the required information to persuade a U.S. judge to extradite the Isaias brothers.

Comment

¶14. (C) Correa was unequivocal in his assertion that the GOE has to pay the Oxy VAT arbitration ruling, a good sign that the GOE accepts the need to honor the international commitments they have inherited, although we expect there will be plenty of negotiations between the GOE and Oxy over the details. It is also welcome news that Correa remains interested in the Economic Dialogue and will pursue at least some degree of lobbying for ATPA renewal. It is also useful that his new Foreign Minister heard his guidance on these matters. It remains unclear how Correa intends to manage the Quiport airport concession, but it appears that he is not set on a particular course of action and remains open to discussion with the municipality. It also remains to be seen what, if anything, will come of the GOE review of its BITs and whether Ecuador will seek to establish a regional arbitration body.

¶15. (C) The discussion of the Isaias arbitration case was a

good opportunity to remind three leading GOE officials that we are prepared to move the case forward but can only do so if the GOE presents a well-established legal case.

JEWELL